

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 445

Introduced by Assembly Member Chávez

February 19, 2013

An act to amend Section ~~72670~~ 47605 of the Education Code, relating to ~~postsecondary education~~ *charter schools*.

LEGISLATIVE COUNSEL'S DIGEST

AB 445, as amended, Chávez. ~~Community colleges: governing boards: auxiliary organizations.~~ *Charter schools: supervisory and oversight responsibilities.*

Existing law authorizes the establishment of a charter school through the circulation of a petition and submission of the petition to the governing board of the school district for review and approval, as specified. Under existing law, if the governing board of a school district denies the petition, the petitioner may submit the petition to the county board of education, and, if the county board of education denies the petition, the petitioner may file the petition or appeal to the State Board of Education for approval. Existing law authorizes the state board, by mutual agreement, to designate its supervisory and oversight responsibilities for a charter school it has approved to any local educational agency in the county in which the charter school is located or to the governing board of the school district that first denied the petition.

This bill would instead authorize the state board, by mutual agreement, to designate its supervisory and oversight responsibilities for a charter school it has approved to any local educational agency.

~~Existing law authorizes the governing board of a community college district to establish auxiliary organizations, as defined, for the purpose of providing supportive services and specialized programs for the benefit of its college or colleges.~~

~~This bill would make nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 47605 of the Education Code is amended
2 to read:

3 47605. (a) (1) Except as set forth in paragraph (2), a petition
4 for the establishment of a charter school within a school district
5 may be circulated by one or more persons seeking to establish the
6 charter school. A petition for the establishment of a charter school
7 shall identify a single charter school that will operate within the
8 geographic boundaries of that school district. A charter school
9 may propose to operate at multiple sites within the school district,
10 as long as each location is identified in the charter school petition.

11 The petition may be submitted to the governing board of the school
12 district for review after either of the following conditions is met:

13 (A) The petition is signed by a number of parents or legal
14 guardians of pupils that is equivalent to at least one-half of the
15 number of pupils that the charter school estimates will enroll in
16 the school for its first year of operation.

17 (B) The petition is signed by a number of teachers that is
18 equivalent to at least one-half of the number of teachers that the
19 charter school estimates will be employed at the school during its
20 first year of operation.

21 (2) A petition that proposes to convert an existing public school
22 to a charter school that would not be eligible for a loan pursuant
23 to subdivision (b) of Section 41365 may be circulated by one or
24 more persons seeking to establish the charter school. The petition
25 may be submitted to the governing board of the school district for
26 review after the petition is signed by not less than 50 percent of
27 the permanent status teachers currently employed at the public
28 school to be converted.

29 (3) A petition shall include a prominent statement that a
30 signature on the petition means that the parent or legal guardian

1 is meaningfully interested in having his or her child or ward attend
2 the charter school, or in the case of a teacher's signature, means
3 that the teacher is meaningfully interested in teaching at the charter
4 school. The proposed charter shall be attached to the petition.

5 (4) After receiving approval of its petition, a charter school that
6 proposes to establish operations at one or more additional sites
7 shall request a material revision to its charter and shall notify the
8 authority that granted its charter of those additional locations. The
9 authority that granted its charter shall consider whether to approve
10 those additional locations at an open, public meeting. If the
11 additional locations are approved, they shall be a material revision
12 to the charter school's charter.

13 (5) A charter school that is unable to locate within the
14 jurisdiction of the chartering school district may establish one site
15 outside the boundaries of the school district, but within the county
16 in which that school district is located, if the school district within
17 the jurisdiction of which the charter school proposes to operate is
18 notified in advance of the charter petition approval, the county
19 superintendent of schools and the Superintendent are notified of
20 the location of the charter school before it commences operations,
21 and either of the following circumstances exists:

22 (A) The school has attempted to locate a single site or facility
23 to house the entire program, but a site or facility is unavailable in
24 the area in which the school chooses to locate.

25 (B) The site is needed for temporary use during a construction
26 or expansion project.

27 (6) Commencing January 1, 2003, a petition to establish a charter
28 school ~~may~~ shall not be approved to serve pupils in a grade level
29 that is not served by the school district of the governing board
30 considering the petition, unless the petition proposes to serve pupils
31 in all of the grade levels served by that school district.

32 (b) No later than 30 days after receiving a petition, in accordance
33 with subdivision (a), the governing board of the school district
34 shall hold a public hearing on the provisions of the charter, at
35 which time the governing board of the school district shall consider
36 the level of support for the petition by teachers employed by the
37 district, other employees of the district, and parents. Following
38 review of the petition and the public hearing, the governing board
39 of the school district shall either grant or deny the charter within
40 60 days of receipt of the petition, provided, however, that the date

1 may be extended by an additional 30 days if both parties agree to
2 the extension. In reviewing petitions for the establishment of
3 charter schools pursuant to this section, the chartering authority
4 shall be guided by the intent of the Legislature that charter schools
5 are and should become an integral part of the California educational
6 system and that establishment of charter schools should be
7 encouraged. The governing board of the school district shall grant
8 a charter for the operation of a school under this part if it is satisfied
9 that granting the charter is consistent with sound educational
10 practice. The governing board of the school district shall not deny
11 a petition for the establishment of a charter school unless it makes
12 written factual findings, specific to the particular petition, setting
13 forth specific facts to support one or more of the following
14 findings:

15 (1) The charter school presents an unsound educational program
16 for the pupils to be enrolled in the charter school.

17 (2) The petitioners are demonstrably unlikely to successfully
18 implement the program set forth in the petition.

19 (3) The petition does not contain the number of signatures
20 required by subdivision (a).

21 (4) The petition does not contain an affirmation of each of the
22 conditions described in subdivision (d).

23 (5) The petition does not contain reasonably comprehensive
24 descriptions of all of the following:

25 (A) (i) A description of the educational program of the school,
26 designed, among other things, to identify those whom the school
27 is attempting to educate, what it means to be an “educated person”
28 in the 21st century, and how learning best occurs. The goals
29 identified in that program shall include the objective of enabling
30 pupils to become self-motivated, competent, and lifelong learners.

31 (ii) If the proposed school will serve high school pupils, a
32 description of the manner in which the charter school will inform
33 parents about the transferability of courses to other public high
34 schools and the eligibility of courses to meet college entrance
35 requirements. Courses offered by the charter school that are
36 accredited by the Western Association of Schools and Colleges
37 may be considered transferable and courses approved by the
38 University of California or the California State University as
39 creditable under the “A” to “G” admissions criteria may be
40 considered to meet college entrance requirements.

1 (B) The measurable pupil outcomes identified for use by the
2 charter school. "Pupil outcomes," for purposes of this part, means
3 the extent to which all pupils of the school demonstrate that they
4 have attained the skills, knowledge, and attitudes specified as goals
5 in the school's educational program. Pupil outcomes shall include
6 outcomes that address increases in pupil academic achievement
7 both schoolwide and for all groups of pupils served by the charter
8 school, as that term is defined in subparagraph (B) of paragraph
9 (3) of subdivision (a) of Section 47607.

10 (C) The method by which pupil progress in meeting those pupil
11 outcomes is to be measured.

12 (D) The governance structure of the school, including, but not
13 limited to, the process to be followed by the school to ensure
14 parental involvement.

15 (E) The qualifications to be met by individuals to be employed
16 by the school.

17 (F) The procedures that the school will follow to ensure the
18 health and safety of pupils and staff. These procedures shall include
19 the requirement that each employee of the school furnish the school
20 with a criminal record summary as described in Section 44237.

21 (G) The means by which the school will achieve a racial and
22 ethnic balance among its pupils that is reflective of the general
23 population residing within the territorial jurisdiction of the school
24 district to which the charter petition is submitted.

25 (H) Admission requirements, if applicable.

26 (I) The manner in which annual, independent financial audits
27 shall be conducted, which shall employ generally accepted
28 accounting principles, and the manner in which audit exceptions
29 and deficiencies shall be resolved to the satisfaction of the
30 chartering authority.

31 (J) The procedures by which pupils can be suspended or
32 expelled.

33 (K) The manner by which staff members of the charter schools
34 will be covered by the State Teachers' Retirement System, the
35 Public Employees' Retirement System, or federal social security.

36 (L) The public school attendance alternatives for pupils residing
37 within the school district who choose not to attend charter schools.

38 (M) A description of the rights of ~~any~~ *an* employee of the school
39 district upon leaving the employment of the school district to work

1 in a charter school, and of any rights of return to the school district
2 after employment at a charter school.

3 (N) The procedures to be followed by the charter school and
4 the entity granting the charter to resolve disputes relating to
5 provisions of the charter.

6 (O) A declaration *of* whether or not the charter school shall be
7 deemed the exclusive public school employer of the employees of
8 the charter school for purposes of Chapter 10.7 (commencing with
9 Section 3540) of Division 4 of Title 1 of the Government Code.

10 (P) A description of the procedures to be used if the charter
11 school closes. The procedures shall ensure a final audit of the
12 school to determine the disposition of all assets and liabilities of
13 the charter school, including plans for disposing of any net assets
14 and for the maintenance and transfer of pupil records.

15 (c) (1) Charter schools shall meet all statewide standards and
16 conduct the pupil assessments required pursuant to Sections 60605
17 and 60851 and any other statewide standards authorized in statute
18 or pupil assessments applicable to pupils in noncharter public
19 schools.

20 (2) Charter schools shall, on a regular basis, consult with their
21 parents, legal guardians, and teachers regarding the school's
22 educational programs.

23 (d) (1) In addition to any other requirement imposed under this
24 part, a charter school shall be nonsectarian in its programs,
25 admission policies, employment practices, and all other operations,
26 shall not charge tuition, and shall not discriminate against ~~any a~~
27 pupil on the basis of the characteristics listed in Section 220. Except
28 as provided in paragraph (2), admission to a charter school shall
29 not be determined according to the place of residence of the pupil,
30 or of his or her parent or legal guardian, within this state, except
31 that an existing public school converting partially or entirely to a
32 charter school under this part shall adopt and maintain a policy
33 giving admission preference to pupils who reside within the former
34 attendance area of that public school.

35 (2) (A) A charter school shall admit all pupils who wish to
36 attend the school.

37 (B) If the number of pupils who wish to attend the charter school
38 exceeds the school's capacity, attendance, except for existing pupils
39 of the charter school, shall be determined by a public random
40 drawing. Preference shall be extended to pupils currently attending

1 the charter school and pupils who reside in the district except as
2 provided for in Section 47614.5. Other preferences may be
3 permitted by the chartering authority on an individual school basis
4 and only if consistent with the law.

5 (C) In the event of a drawing, the chartering authority shall
6 make reasonable efforts to accommodate the growth of the charter
7 school and in no event shall take any action to impede the charter
8 school from expanding enrollment to meet pupil demand.

9 (3) If a pupil is expelled or leaves the charter school without
10 graduating or completing the school year for any reason, the charter
11 school shall notify the superintendent of the school district of the
12 pupil's last known address within 30 days, and ~~shall~~, upon request,
13 *shall* provide that school district with a copy of the cumulative
14 record of the pupil, including a transcript of grades or report card,
15 and health information. This paragraph applies only to pupils
16 subject to compulsory full-time education pursuant to Section
17 48200.

18 (e) The governing board of a school district shall not require
19 ~~any~~ *an* employee of the school district to be employed in a charter
20 school.

21 (f) The governing board of a school district shall not require
22 ~~any~~ *a* pupil enrolled in the school district to attend a charter school.

23 (g) The governing board of a school district shall require that
24 the petitioner or petitioners provide information regarding the
25 proposed operation and potential effects of the school, including,
26 but not limited to, the facilities to be used by the school, the manner
27 in which administrative services of the school are to be provided,
28 and potential civil liability effects, if any, upon the school and
29 upon the school district. The description of the facilities to be used
30 by the charter school shall specify where the school intends to
31 locate. The petitioner or petitioners ~~shall~~ also *shall* be required to
32 provide financial statements that include a proposed first-year
33 operational budget, including startup costs, and cashflow and
34 financial projections for the first three years of operation.

35 (h) In reviewing petitions for the establishment of charter
36 schools within the school district, the governing board of the school
37 district shall give preference to petitions that demonstrate the
38 capability to provide comprehensive learning experiences to pupils
39 identified by the petitioner or petitioners as academically low

1 achieving pursuant to the standards established by the department
2 under Section 54032, as it read before July 19, 2006.

3 (i) Upon the approval of the petition by the governing board of
4 the school district, the petitioner or petitioners shall provide written
5 notice of that approval, including a copy of the petition, to the
6 applicable county superintendent of schools, the department, and
7 the state board.

8 (j) (1) If the governing board of a school district denies a
9 petition, the petitioner may elect to submit the petition for the
10 establishment of a charter school to the county board of education.
11 The county board of education shall review the petition pursuant
12 to subdivision (b). If the petitioner elects to submit a petition for
13 establishment of a charter school to the county board of education
14 and the county board of education denies the petition, the petitioner
15 may file a petition for establishment of a charter school with the
16 state board, and the state board may approve the petition, in
17 accordance with subdivision (b). A charter school that receives
18 approval of its petition from a county board of education or from
19 the state board on appeal shall be subject to the same requirements
20 concerning geographic location to which it would otherwise be
21 subject if it received approval from the entity to which it originally
22 submitted its petition. A charter petition that is submitted to either
23 a county board of education or to the state board shall meet all
24 otherwise applicable petition requirements, including the
25 identification of the proposed site or sites where the charter school
26 will operate.

27 (2) In assuming its role as a chartering agency, the state board
28 shall develop criteria to be used for the review and approval of
29 charter school petitions presented to the state board. The criteria
30 shall address all elements required for charter approval, as
31 identified in subdivision (b) and shall define “reasonably
32 comprehensive” as used in paragraph (5) of subdivision (b) in a
33 way that is consistent with the intent of this part. Upon satisfactory
34 completion of the criteria, the state board shall adopt the criteria
35 on or before June 30, 2001.

36 (3) A charter school for which a charter is granted by either the
37 county board of education or the state board based on an appeal
38 pursuant to this subdivision shall qualify fully as a charter school
39 for all funding and other purposes of this part.

1 (4) If either the county board of education or the state board
2 fails to act on a petition within 120 days of receipt, the decision
3 of the governing board of the school district to deny a petition
4 shall, ~~thereafter~~, be subject to judicial review.

5 (5) The state board shall adopt regulations implementing this
6 subdivision.

7 (6) Upon the approval of the petition by the county board of
8 education, the petitioner or petitioners shall provide written notice
9 of that approval, including a copy of the petition to the department
10 and the state board.

11 (k) (1) The state board ~~may~~, by mutual agreement, *may*
12 designate its supervisory and oversight responsibilities for a
13 charter school approved by the state board to any local educational
14 agency ~~in the county in which the charter school is located or to~~
15 ~~the governing board of the school district that first denied the~~
16 ~~petition.~~

17 (2) The designated local educational agency shall have all
18 monitoring and supervising authority of a chartering agency,
19 including, but not limited to, powers and duties set forth in Section
20 47607, except the power of revocation, which shall remain with
21 the state board.

22 (3) A charter school that is granted its charter through an appeal
23 to the state board and elects to seek renewal of its charter shall,
24 before expiration of the charter, submit its petition for renewal to
25 the governing board of the school district that initially denied the
26 charter. If the governing board of the school district denies the
27 school's petition for renewal, the school may petition the state
28 board for renewal of its charter.

29 (l) Teachers in charter schools shall hold a Commission on
30 Teacher Credentialing certificate, permit, or other document
31 equivalent to that which a teacher in other public schools would
32 be required to hold. These documents shall be maintained on file
33 at the charter school and are subject to periodic inspection by the
34 chartering authority. It is the intent of the Legislature that charter
35 schools be given flexibility with regard to noncore, noncollege
36 preparatory courses.

37 (m) A charter school shall transmit a copy of its annual,
38 independent financial audit report for the preceding fiscal year, as
39 described in subparagraph (I) of paragraph (5) of subdivision (b),
40 to its chartering entity, the Controller, the county superintendent

1 of schools of the county in which the charter school is sited, unless
2 the county board of education of the county in which the charter
3 school is sited is the chartering entity, and the department by
4 December 15 of each year. This subdivision does not apply if the
5 audit of the charter school is encompassed in the audit of the
6 chartering entity pursuant to Section 41020.

7 ~~SECTION 1. Section 72670 of the Education Code is amended~~
8 ~~to read:~~

9 ~~72670. The governing board of a community college district~~
10 ~~may establish auxiliary organizations for the purpose of providing~~
11 ~~supportive services and specialized programs for the general benefit~~
12 ~~of its college or colleges. As used in this article, "auxiliary~~
13 ~~organization" may include, but is not limited to, the following~~
14 ~~entities:~~

15 ~~(a) An entity in which an official of a community college district~~
16 ~~participates as a director as part of his or her official position.~~

17 ~~(b) An entity formed or operating pursuant to Article 4~~
18 ~~(commencing with Section 76060) of Chapter 1 of Part 47.~~

19 ~~(c) An entity that operates a commercial service for the benefit~~
20 ~~of a community college or district on a campus or other property~~
21 ~~of the district.~~

22 ~~(d) An entity whose governing instrument provides in substance~~
23 ~~both of the following:~~

24 ~~(1) Its purpose is to promote or assist a community college or~~
25 ~~district, or to receive gifts, property and funds to be used for the~~
26 ~~benefit of the community college or district or a person or~~
27 ~~organization having an official relationship with the community~~
28 ~~college or district.~~

29 ~~(2) Any of its directors, governors, or trustees are either~~
30 ~~appointed or nominated by, or subject to, the approval of the~~
31 ~~governing board of the district, an official of the district, or~~
32 ~~selected, ex officio, from the membership of the student body or~~
33 ~~the faculty or the governing board or the administrative staff of~~
34 ~~the district.~~

35 ~~(e) An entity that is designated as an auxiliary organization by~~
36 ~~the district governing board.~~